TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 267.

THE CORRALITOS COMPANY, APPELLANT,

vs.

THE UNITED STATES AND THE APACHE INDIANS.

APPEAL FROM THE COURT OF CLAIMS.

FILED APRIL 20, 1899.

(17,374.)

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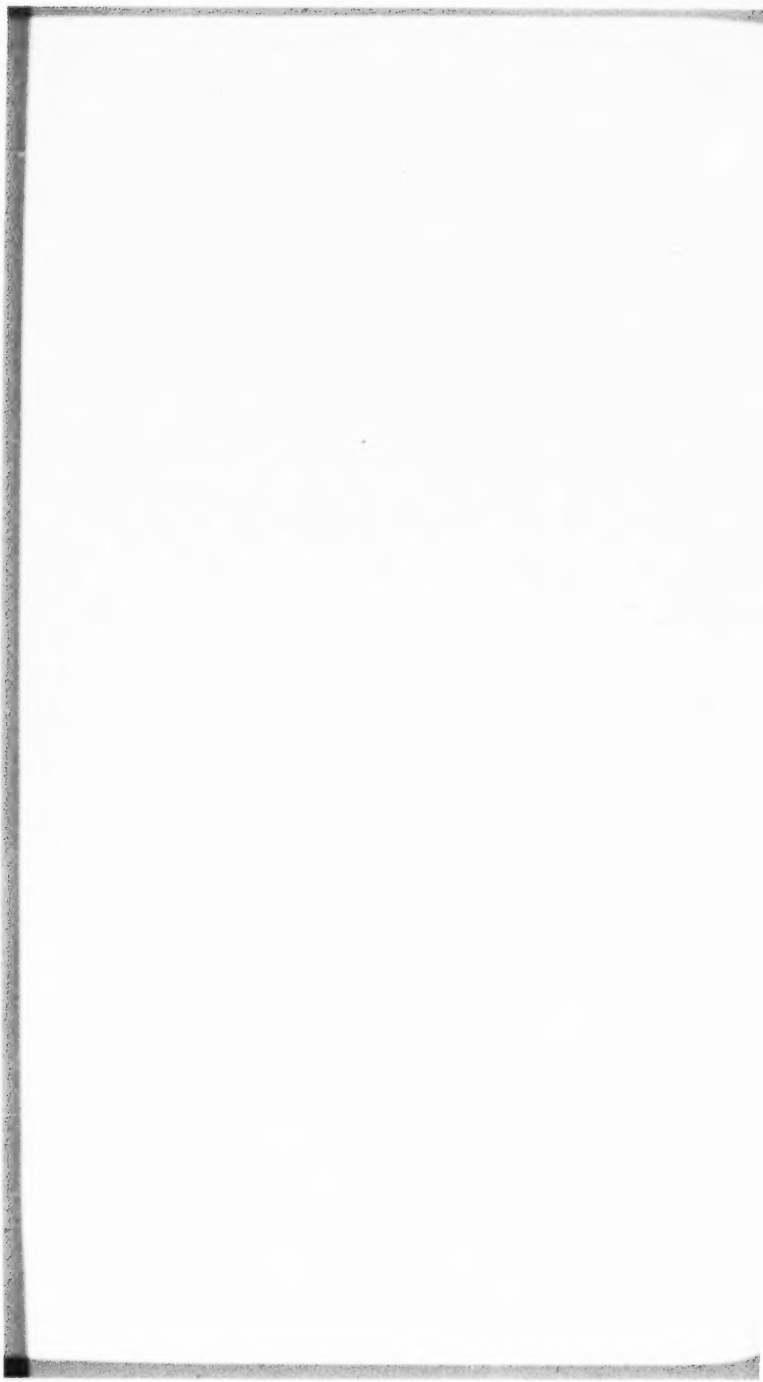

1 In the Court of Claims.

THE CORRALITOS COMPANY		
vs.		No. 8246.
THE UNITED STATES and THE APACHE INDIANS.		Indian Depredation.

I.—*Petition.*

The original petition in this cause was entitled "The Corralitos Stock and Mining Company" and was filed September 6, 1892.

On motion of claimant's counsel and by leave of court, an amended petition, changing the caption of suit to the "Corralitos Company," was filed March 2, 1894, and is as follows:

Amended Petition.

To the honorable Chief Justice and judges of the Court of Claims:

I. Your petitioner, the said company, chartered under
(J. R.) the laws of the State of New York, and doing business in the State of Chihuahua, county of Guleana, Republic of Mexico, respectfully represents:

II. That this petition is filed and the jurisdiction of this court is invoked, by virtue of an act of Congress, entitled "An act to provide for the adjudication and payment of claims arising from Indian depredations," approved March 3, 1891.

III. That at the time the grievances hereinafter described were committed, namely, in the years 1881 and 1882, your
(J. R.) petitioners were citizens of the United States, and resided in the city of New York, State of New York.

IV. That, in 1881 and 1882, your petitioners were the owners of the following property: 1,300 beefs, 3 to 6 years old, fat and in good condition; 90 head of horses, geldings, American and half-breed; 20 head of mules; 10,000 head of sheep; 150 head of stock
2 cattle; 100 head of stock horses; 3 carts; 6 yoke of oxen, tools and camp outfit; which was stolen and carried off under the following circumstances:

The Apache Indians of which Ju Geranime, Little Chief and others were chiefs, were located at that time in the Territory of New Mexico and Arizona. Our ranch at that time was the nearest large ranch to them; they frequently camped for weeks and months on our lands, and drove the stock into the Sierra Madre, and killed them or drove them out of the State of Chihuahua into New Mexico and Arizona. The county of Guleana, in Chihuahua, Republic of Mexico, is adjoining New Mexico and Arizona; the principle depredations were committed in 1880 and 1881 when the Indians had left the reservation, and stayed for several months on our grant, which is about fifty miles square.

V. That the property thus stolen and carried off by Apache In-

dians, then in amity with the United States, consisted of the following, with the cash value of each item at the time when, and at the place where, stolen :

April 1880, 1,300 beeves, 3 to 6 years old, @ $28.....	$36,400 00
The beeves were fat and in good condition.	
90 head of horses, geldings, American and half-breed, @ $75.....	6,750 00
20 head of mules @ $75.....	1,500 00
10,000 head of sheep @ $2.50.....	25,000 00
150 head of stock cattle @ $12.....	1,800 00
100 head of stock horses @ $25.....	2,500 00
3 carts @ $100.....	300 00
6 yoke of oxen @ $60.....	360 00
Tools and camp outfit.....	100 00
Of the aggregate value of.....	$74,710 00

3 VI. The said property was stolen and carried off by said Indians without cause or provocation on the part of your petitioner or his agent; and has not been returned or paid for.

VII. That this claim has not been filed in the Department of the Interior, or presented to Congress, or any subordinate authority.

VIII. That no part of said claim has been assigned to any one; that the amount is justly due to your petitioner; that there are no credits or offsets thereto, and therefore the petitioner claims from the United States and the said Indians the sum of seventy-four thousand seven hundred and ten dollars, and demands judgment upon the law and the facts for said sum, according to the act of March 3d, 1891, on this subject, and for such further or other relief as the nature of this case may require.

GEO. B. ZIMPLEMAN,
Ag't Corralitos Co.

STATE OF TEXAS, }
County of Travis. }

Before me, S. D. de Condova, a notary public for said county and State, personally appeared Geo. B. Zimpleman, agent of the Corralitos Co., who, being duly sworn, says that he is the petitioner named in the foregoing petition, and that he has read over said petition and understands the same, and that the matters therein stated are true to the best of his knowledge and belief.

—— ——.

Subscribed and sworn to before me this 29th day of August, 1892.

S. D. DE CONDOVA,
Notary Public, Travis County, Texas.

CRITCHER & CRITCHER, *Attorneys.*

4 THE CORRALITOS COMPANY
vs.
THE UNITED STATES and THE APACHE INDIANS. } No. 8246.

Plea in Bar. Filed November 29, 1897.

Now comes the assistant attorney general and, after leave of the court first had and obtained, for plea to the declaration filed herein says that the claimant ought not to have and maintain his aforesaid suit in this cause because the depredation complained of is alleged to have occurred in the Republic of Mexico, beyond the jurisdiction of the United States and courts thereof, and that this court has not jurisdiction to entertain this suit.

And this the defendants are ready to verify.

JOHN G. THOMPSON,
Assistant Attorney General.

5 THE CORRALITOS COMPANY
vs.
THE UNITED STATES and THE APACHE INDIANS. } No. 8246.

Demurrer to Plea. Filed January 8, 1898.

And now comes the plaintiff, by John Critcher, his attorney, and says defendants' plea in bar is bad in substance.

THE CORRALITOS COMPANY,
By JOHN CRITCHER, *Their Attorney.*

6 IV.—*Opinion of the Court.*

MARCH 28, 1898.

DAVIS, J., delivered the opinion of the court:

The petition in this case avers that the plaintiff is a "company chartered under the laws of the State of Colorado and doing business in the State of Chihuahua, county of Galena, Republic of Mexico;" that "at the time the grievances hereinafter described were committed * * * your petitioners were citizens of the United States and resided in the city of New York."

The petition then alleges the ownership of certain property stated to have been stolen by Indians who "were located at that time in the Territory of New Mexico and Arizona," and which (after the theft) was taken into the United States. The substance of the petition (so far as important at this time) is that Indians from the United States stole plaintiff's property in Mexico and took it from Mexico into the United States.

To this petition defendants plead in bar: "Because the depredation complained of is alleged to have occurred in the Republic of Mexico, beyond the jurisdiction of the United States and courts thereof, and that this court has not jurisdiction to entertain this suit."

Plaintiffs demur to this plea.

The proposition presented by the petition is thus correctly stated by defendants: "That the United States shall make restitution to the claimant company for the taking of its property on Mexican soil by Indians who sustained tribal relations with the United States," and that this court has jurisdiction to enter a judgment for the amount of this loss against the United States and the defendant Indians.

The statute under which the claim is presented (26 Stat. L., p. 851) confers upon this court authority "to inquire into and finally adjudicate" all claims of certain classes. The first class is the only one important to our present purpose; it is thus defined: All claims for property of citizens of "the United States taken or destroyed by Indians belonging to any band, tribe, or nation in amity with the United States, without just cause or provocation on the part of the owner or agent in charge, and not returned or paid for."

Therefore the plaintiff must be a citizen of the United States; his property must have been taken or destroyed by Indians, and the band or tribe to which the Indians belonged must have been, at the time, in amity with the United States.

There is in the act no limitation in terms as to the place of taking or destruction. Why should there be? The general principle of law is that the statutes of a country do not run beyond its
7 territorial jurisdiction except upon its merchant vessels upon the high seas, usually upon the vessels of its navy, and in some cases (provided for by treaty) upon merchant vessels and citizens within the jurisdiction of the few countries where the privilege of "extraterritoriality" exists. None of these exceptions attach to the Republic of Mexico; her rights in the family of nations are equal to those of any other power; her duties and responsibilities are the same. The United States (unless for some express agreement between the two nations) may not discipline or control Indian tribes within the Mexican territory, and, being without power to enter that territory in time of peace without Mexico's consent, is without direct responsibility for what may there occur. Wrongs sustained by a citizen of the United States while in Mexico can only be remedied through the executive branch of the Government and do not present causes of action in the courts. If citizens of the United States resort to Mexico, they may expect and their Government may demand for them equality of safety and protection with the citizens of that country, an unbiased administration of the laws in relation to them and their property, and any special advantages (if such there happen to be) expressly reserved by treaty. Beyond this there is no right.

It is not alleged that this plaintiff was subjected to any loss other than that which occurred at the hands of Indians within the territorial jurisdiction of Mexico; to remedy that loss he must resort to the Mexican courts, if the law of that Republic happen to provide a remedy through its judiciary for such misfortunes. Failing that, an appeal might possibly be made upon the Mexican government through the executive department of the Government of the United States, if the facts so authorize, and that department deem such an

appeal advisable and wise. In any event, the matter in dispute does not fall within the jurisdiction of this court.

This conclusion, drawn from the laws governing the responsibilities of nations to each other, and the limitation of the territorial responsibility of any nation, is in this instance absolutely enforced by the statute of 1891, giving this court jurisdiction over Indian depredation cases. This act is purely remedial in its nature; it provides a forum where certain alleged rights may be litigated, but it creates no rights except in so far as it imposes a liability upon the United States for plaintiff's benefit. To find the wrongs which it hopes to remedy we must turn to the act of 1834; so long have these contentions been before the Government, in some one or more of its three branches. (Act of June 30, 1834; 4 Stat. L., 731, sec. 17.) In this act it is provided in substance:

That if any Indian or Indians belonging to any tribe in amity with the United States shall, within the Indian country, take or destroy the property of any person lawfully within such country, or shall pass from the Indian country into any State or Territory inhabited by citizens of the United States, and there take, steal, or destroy any * * * property belonging to any citizen or inhabitant of the United States, such citizen or inhabitant * * * may make application to the proper * * * agent, * * * who, upon being furnished with the necessary documents and proofs, shall, under the direction of the President, make application to the nation or tribe to which said Indian or Indians shall belong for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction in a reasonable time, not exceeding twelve months, it shall be the duty of such * * * agent * * * to make return of his doings to the Commissioner of Indian Affairs, that such further steps may be taken as shall be proper, in the opinion of the President, to obtain satisfaction for the injury; and in the meantime, in respect to the property so taken, stolen, or destroyed, the United States guarantee to the party so injured an eventual indemnification: *Provided*, that if such injured party * * *
8 shall in any way violate any of the provisions of this act by seeking or attempting to obtain private satisfaction or revenge he shall forfeit all claim upon the United States for such indemnification.

We have held (*Leighton v. The United States*, 29 C. Cls., p. 288) "the claim in every case, under the act of 1834, arose from the taking or destruction of the property of a citizen or an inhabitant by Indians belonging to some tribe in amity with the United States, and no rights, other than the mere right of having claims investigated, have been given to claimants except under and by virtue of that general act, unless other rights accrued by reason of treaty obligations."

Every claim here pending under the remedial statute of 1891 must turn back to the statute of 1834 to establish a right of recovery. This act limits the claims to those arising from depredations committed by "any Indian or Indians belonging to any tribe in amity with the United States," and fixes the place of loss as "within the

Indian country." or any "State or Territory inhabited by citizens of the United States." The purpose of the act is thus defined in the title, "An act to regulate trade and intercourse with the Indian tribes and to preserve peace on the frontiers." The first section provides "that all that part of the United States west of the Mississippi, and not within the States of Missouri and Louisiana or the Territory of Arkansas, and also that part of the United States east of the Mississippi river, and not within any State to which the Indian title has not been extinguished, for the purposes of this act, be taken and deemed to be the Indian country." Here we get the official definition of the oft-recurring phrase "the Indian country."

The act then provides for a license to trade with the tribes "in the Indian country," to be issued by "a superintendent of Indian affairs, or Indian agent, or subagent," the applicant to give bond that he will "faithfully observe all the laws and regulations made for the government of trade and intercourse with the Indian tribes and in no respect violate the same." The superintendent of the district is authorized to revoke these licenses "whenever the person licensed shall, in his opinion, have transgressed any of the laws or regulations provided for the government of trade and intercourse with the Indian tribes, or that it would be improper to permit him to remain in the Indian country." The act prohibits trade within the Indian boundaries except under certain conditions. It empowers the agent to refuse licenses subject to an appeal to the Commissioner of Indian Affairs. It authorizes the President to prohibit the introduction of goods into the Indian country, to revoke licenses to trade with any Indian tribe, and to prohibit trade with them. It directs that licenses shall only be granted to citizens of the United States, and it makes "a foreigner" subject to punishment if he remain in the "Indian country" without the prescribed permission.

Section 18 authorizes superintendents, agents, and subagents, within their respective districts, to take depositions and to administer oaths. Section 19 authorizes the superintendents, agents, and subagents to endeavor to procure the arrest and trial of all Indians accused of committing any crime, offense, or misdemeanor, and all other persons who may have committed crimes or offenses within any State or Territory and have fled into the Indian country, either by demanding the same of the chiefs of the proper tribes, or by such other means as the President may authorize; and the President may direct the military force of the United States to be em-
9 ployed in the apprehension of such Indians, and also in preventing or terminating hostilities between any of the Indian tribes.

Sections 20 and 21 control the sale of spirits, section 23 authorizes the employment of the military forces of the United States in the apprehension of certain persons in the "Indian country," section 25 extends the criminal laws of the United States to the "Indian country." Section 16 of the act provides that where in the Indian country a white person in the commission "of any crime, offense, or misdemeanor" shall injure the property of any friendly Indian he shall pay to the Indian twice the value of the property, and if

unable to pay, then the United States shall pay, provided the Indian or any of his nation have not sought private revenge or "attempted to obtain satisfaction by any force or violence."

Other citations are unnecessary. The act in all its parts is harmonious and every section shows clearly that Congress was legislating only for Indian tribes within the territorial jurisdiction of the United States. It is impossible to assume that the Congress would attempt to make such detailed regulations as to Indians outside the United States, either in Mexico or Canada, or attempt to prescribe the method of enforcement in those countries of a statute of the United States or assume in these foreign jurisdictions to provide officers to superintend that enforcement within those friendly nations.

What is understood in the Department of the Interior as the Indian country is well shown in the following letter from the honorable Secretary of the Interior, dated May 1, 1879:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., *May* 1, 1879.

The honorable the Secretary of War.

SIR: I am in receipt of your request of the 30th ultimo for a reference to the laws and statutes of the United States which declare the Indian Territory under its present boundaries "Indian country," so as to subject it to the intercourse laws and make it lawful to expel intruders therefrom by military force, if necessary, under section 2147 of the Revised Statutes.

The whole of this territory was included in the statute of March 30, 1802, declaring what portion of the United States shall be deemed Indian country, which was re-enacted in terms by the first section of the act of June 30, 1834. (Stats. 4, p. 729.)

The intervening act of May 28, 1830, authorized the President of the United States to cause so much of any territory west of the Mississippi, not included in any State or organized Territory, as he might judge to be necessary to be set off and divided into districts for the reception of Indian tribes. This territory was especially selected and reserved by the Executive for the purposes prescribed, and has ever since been known and organized as the "Indian country," no States or organized Territories having been created therein. In the meantime, by treaty of May 6, 1828 (article 2, Stats. 7, p. 311), which was reaffirmed by the treaty of December 28, 1835 (Stats. 7, p. 479), the United States ceded to the Cherokee nation what is now known as the Cherokee country in said Territory, and the jurisdiction of which is still retained by said nation under treaty of July 19, 1866 (Stats. 14, p. 799, art. 16), although a large portion of said lands are located by other Indians under the provisions of the latter treaty.

The next cession in order of time was made to the Creek nation by treaty of February 14, 1833. (Stats. 7, p. 417, art. 21.) This tract was situated immediately south of the Cherokee lands, extending westward to the Mexican boundary. Next came the Choctaw and Chickasaw cession of June 22, 1855 (Stats. 11, p. 611), by which

the residue of what is now the Indian Territory was ceded to those tribes.

The claim, therefore, does not fall within our jurisdiction either under the broad principles of national or international responsibility or under the jurisdiction expressly granted by the act of 1891 as interpreted by the act of 1834.

Plaintiff's demurrer to plea in bar overruled. Plea in bar sustained. Petition dismissed.

10 V.—*Judgment of the Court.*

THE CORRALITOS COMPANY
vs.
THE UNITND STATES and THE APACHE Indians. } No. 8246. Indian Depredation.

At a Court of Claims, held in the city of Washington on the 28th day of March, 1898, judgment was ordered to be entered as follows:

The claimant's demurrer to defendants' plea in bar was overruled and defendants' plea in bar was sustained, and it was ordered, adjudged, and decreed that the petition of the claimant be dismissed.

BY THE COURT.

11 VI.—*Application for and Allowance of Appeal.*

THE CORRALITOS COMPANY
vs.
THE UNITED STATES and APACHE INDIANS. } No. 8246. Indian Depredation.

The Corralitos Company, by John Critcher, its attorney, makes application to the honorable Court of Claims for an appeal of the case of The Corralitos Company *vs.* The United States and The Apache Indians to the Supreme Court of the United States.

JOHN CRITCHER,
Attorney of Record of said Company.

Filed May 9, 1898.

MARCH 6, 1899.

Mr. Critcher, for the claimant, presented the application for the allowance of appeal herein, filed May 9, 1898, and it was ordered that the appeal be allowed as prayed for.

BY THE COURT.

12 In the Court of Claims.

THE CORRALITOS COMPANY
vs.
THE UNITED STATES and THE APACHE INDIANS. } No. 8246. Indian Depredation.

I, John Randolph, assistant clerk of the Court of Claims, do hereby certify that the foregoing are true transcripts of the plead-

(J. R.) ings in the above-entitled cause, of the opinion of the court, of the judgment of the court dismissing the petition, of the application for and allowance of appeal to the Supreme Court of the United States.

In testimony whereof I have hereunto set
Seal Court of Claims. my hand and affixed the seal of said court, at Washington, this 17th day of March, 1899.

JOHN RANDOLPH,
Ass't Clerk Court of Claims.

Endorsed on cover: File No., 17,374. Court of Claims. Term No., 267. The Corralitos Company, appellant, *vs.* The United States and The Apache Indians. Filed April 20th, 1899.